

6 FAH-2 H-430

THE NEGOTIATION PROCESS

(TL:CORH-1; 08-21-1997)

6 FAH-2 H-431 PRE-NEGOTIATION ACTIVITY

(TL:CORH-1; 08-21-1997)
(State Only)

a. In conducting discussions/negotiations, the Contracting Officer may be assisted by a negotiation team which could include the COR and members of the Technical Evaluation Panel. The Contracting Officer must maintain control of the negotiations, and must be present at all face-to-face negotiations and initiate all written negotiations.

b. Evaluating and analyzing proposals to determine the competitive range alerts the Contracting Officer to technical weaknesses and provides detailed information on the reasonableness of price or cost estimates. Based on this information, the Contracting Officer prepares for negotiations. The Contracting Officer may call upon the COR to assist him/her in the preparation.

6 FAH-2 H-432 DISCUSSIONS/NEGOTIATIONS

(TL:CORH-1; 08-21-1997)
(State Only)

a. **Competitive negotiations** are **written or oral discussions** between the U.S. Government and each of several offerors separately, to inform each offeror of deficiencies, ambiguities, and uncertainties in its proposal and to provide it with an equitable opportunity to submit revisions.

b. Either written or oral discussions must be conducted separately with each offeror whose proposal is within the competitive range. The goal is to achieve an agreement on all contractual terms and conditions.

c. The Contracting Officer points out to each offeror the ambiguities and deficiencies, if any, in its proposal. The offeror is then given a reasonable opportunity to support, clarify, correct, improve, or revise its proposal by means of a written Best and Final Offer.

d. While the Contracting Officer and others participating in the discussions may advise offerors of all areas in which technical weaknesses are perceived, they must avoid "technical leveling" by not helping an offeror bring its proposal up to the level of other proposals through successive rounds of discussion, i.e., by pointing out weaknesses resulting from the offeror's lack of diligence, competence, or creativity in preparing the proposal.

e. No offeror may be given information which will provide a competitive advantage over other offerors. An offeror's ranking in relation to other offeror's should not be disclosed. The U.S. Government team must be especially careful in discussions to avoid "technical transfusion," meaning the disclosure of an offeror's technical ideas or approaches which results in the improvement of a competing proposal.

f. The U.S. Government should never compromise the competitive environment by leading one offeror to believe that it will win if it makes certain changes or concessions.

6 FAH-2 H-433 BEST AND FINAL OFFERS

(TL:CORH-1; 08-21-1997)

(State Only)

a. Following discussions with offerors, the Contracting Officer indicates the closing of negotiations by requesting Best and Final Offers (BAFOs), thus allowing offerors an opportunity to revise or modify the technical proposals, cost proposals, or both.

b. All offerors are given a common cut-off date to submit BAFOs. When the BAFOs are received, a final technical evaluation is required to determine if the revisions affected the technical merits of the proposals, scores, or relative standing. The same evaluation plan should be used for the final evaluation unless the RFP has been amended.

c. The revised proposals then become the definitive offers which the U.S. Government will use in determining which offeror to select for contract award. The offeror whose proposal offers the greatest advantage to the U.S. Government, price and other factors considered, should receive the award.

6 FAH-2 H-434 AWARD ON INITIAL PROPOSALS

(TL:CORH-1; 08-21-1997)

(State Only)

a. The Contracting Officer may choose to award on the basis of initial proposals, without having to determine a competitive range and hold discussions/negotiations. The solicitation must have notified all offerors that the U.S. Government intends to evaluate proposals and make award without discussion, unless the Contracting Officer determines that discussions are considered necessary.

b. The award decision must be consistent with the evaluation factors stated in the solicitation, and the proposed awardee must be determined to be responsible.

6 FAH-2 H-435 LOWEST-PRICED ACCEPTABLE ACQUISITION PROCESS

(TL:CORH-1; 08-21-1997)

(State Only)

a. For some contracts, the Contracting Officer may use an abbreviated evaluation procedure known as lowest-priced acceptable process.

b. Using this method, proposals are reviewed for compliance with the RFP. If an offeror takes exceptions or proposed alternate methods or materials, these must be evaluated for acceptability.

c. If it is uncertain whether an offeror is acceptable, the same rules apply regarding setting the competitive range as discussed previously. Best and final offers may be requested as in any other negotiated acquisition; however, award on initial proposals

may be more likely using this approach, as long as the lowest price offeror has an acceptable proposal and the firm is responsible.

6 FAH-2 H-436 THROUGH H-439 UNASSIGNED